

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL PATTERSON,

Plaintiff,

-against-

22-CV-02177 (LTS) (SLC)

EMBLEMHEALTH SERVICES COMPANY, LLC and
BLANCA VASQUEZ-CUZCO,

Defendants.

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**JOINT MOTION FOR A STAY OF PRE-TRIAL AND
TRIAL DEADLINES PENDING A DETERMINATION OF
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

In accordance with the Court's Pretrial Scheduling Order issued on November 21, 2024 (Docket No. 37), Defendants EmblemHealth Services Company, LLC and Blanca Vasquez-Cuzco (collectively, "Defendants"), by their undersigned counsel, hereby respectfully submit the parties' joint motion for an Order staying all current pre-trial and trial deadlines pending the Court's determination of Defendants' motion for summary judgment seeking the dismissal of the remainder of the Complaint in its entirety. Defendants duly filed their summary judgment motion today, January 28, 2025.

Plaintiff's counsel consents to and joins the request made in this application.

Brief Procedural Posture

As described in greater detail in Defendants' motion for summary judgment, Plaintiff filed his complaint in this action, which set forth six separate counts under four separate theories under the federal Americans With Disabilities Act ("ADA") and the New York City Human Rights Law ("NYCHRL") ("Complaint"). Docket No. 1.

Defendants filed a pre-answer motion to dismiss seeking the dismissal of the Complaint on the ground that Plaintiff failed to allege a plausible claim that Plaintiff suffered from a covered disability or that he was ever perceived as being disabled. On September 1, 2023, the Court granted in part and denied in part Defendants' motion, dismissing Plaintiff's Count V alleging a failure to accommodate, ruling: "Thus, even construing the Complaint in the light most favorable to Plaintiff, the Court finds that he has not alleged facts plausibly suggesting that he was refused reasonable accommodation on the account of his disability." Docket No. 18 at 16. With respect to the other counts in the Complaint, the Court found that the pleading was sufficient "at this preliminary stage" for the parties to engage in discovery prior to a post-discovery dispositive motion. *Id.*

The parties engaged in and completed discovery, and, on November 21, 2024, the Honorable Sarah L. Cave issued a Pretrial Scheduling Order setting the deadline for Defendants' anticipated dispositive motion and other pre-trial deadlines ("November 2024 Scheduling Order"). Docket No. 37.¹ The November 2024 Scheduling Order also directed as follows:

If the movant believes the motion, if granted, would obviate entirely the necessity of a trial in this matter, the movant may so state in a separate MOTION FOR STAY, which must be served and filed with the moving papers, and may in such stay motion request that the Court defer the remaining requirements of this Order pending its decision on the dispositive motion.

Docket No. 37 at 1, ¶ 1.

Brief Summary of Defendants' Underlying Motion for Summary Judgment

Now that discovery has been completed, Defendants have moved for summary judgment and dismissal of all of Plaintiff's remaining claims in the Complaint. As described in

¹ By subsequent Order issued January 21, 2025, the deadline for dispositive motions was extended to January 28, 2025. Docket No. 41.

Defendants’ motion, Defendants believe that the record in this case – including, primarily, Plaintiff’s own deposition testimony – demonstrates that Plaintiff is unable to create a genuine issue of material fact to warrant a trial on his remaining causes of action under the ADA and NYCHRL because no rational juror could find that Defendants had any unlawful discriminatory animus toward Plaintiff because of a covered “disability” and terminated his employment because of such “disability,” that anyone at EmblemHealth ever perceived Plaintiff to be “disabled,” or that anyone retaliated against Plaintiff due to any alleged protected activity. Defendants respectfully refer the Court to their memorandum of law and other supporting papers for a full and complete recitation of the arguments. Plaintiff intends to submit opposition to Defendants’ motion.

The Parties’ Instant Joint Application for a Stay

Because Defendants have moved for summary judgment and dismissal of the Complaint in its entirety, both sides jointly submit this application in accordance with Paragraph 1 of the November 2024 Scheduling Order (Docket No. 37). Specifically, Defendants’ motion, if granted, would obviate entirely the necessity of a trial in this matter, and therefore the parties respectfully request that the Court defer the remaining requirements of the November 2024 Scheduling Order pending a decision on Defendants’ dispositive motion. Indeed, even a partial grant of Defendants’ summary judgment motion would likely re-shape significantly an ultimate trial on any remaining claims depending on the outcome of the motion, and the parties’ resources would best be preserved if they do not have to incur significant expense in conjunction with pre-trial and trial preparation in the meantime.

Moreover, the current approved briefing schedule contemplates that Defendants’ summary judgment motion will not be fully briefed until March 24, 2025, with a decision to be

issued sometime thereafter.² In short, the parties will avoid incurring significant time and expense in preparing for a trial if Defendants' motion is granted.

CONCLUSION

Based upon the foregoing, both sides jointly respectfully request that the Court grant their instant motion for a stay and for the Court to defer the remaining requirements of the November 2024 Scheduling Order pending resolution of Defendants' filed motion for summary judgment.

Dated: New York, New York
January 28, 2025

Respectfully submitted,

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The foregoing joint request for a stay is granted. The case is stayed and the remaining requirements of the November 21, 2024 Pretrial Scheduling Order (DE # 37) are deferred until further order of this Court. This resolves DE # 48.

SO ORDERED.

1/28/2025

/s/ Laura Taylor Swain, Chief USDJ

² As the November 2024 Scheduling Order provides, significant pre-trial filings would be due shortly after the March 24th fully-briefed date, with a current trial-ready date suggested for May.